

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

OP.No. 11070 of 2000 (P)

PETITIONER:

P.P.ABDUL NAZAR, P.W.D. CONTRACTOR,
PAZHAYA PUTHEN VEETIL HOUSE,
P.O.PACHATTIRI, TIRUR TALUK,
MALAPPURAM.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:

THE SALES TAX OFFICER,
(WORKS CONTRACT AND LUXURY TAXES), '
OFFICE OF THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, MALAPPURAM.

BY GOVERNMENT PLEADER SRI T.C.K.CHAND

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 22/11/2007, ALONG WITH OP NO. 11072 OF 2000 THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NOS.18346/2000 & 11060/2001 IN OP.NO.11070/2000

Dismissed

22/11/2007

Sd/- P.R.RAMAN, JUDGE

APPENDIX

PETITIONER'S EXTS:

EXT.P1	TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1996-97 DTD. 27/11/99.
EXT.P2	TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1997-98 DTD.27/11/99.
EXT.P3	TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 1988099 DTD. 27/11/99.
EXT.P4	TRUE COPY OF THE LETTER IN RESPECT OF ASSESSMENT YEAR 1996-97 SENT BY THE PETITIONER DTD.7/2/2000.
EXT.P5	TRUE COPY OF THE LETTER IN RESPECT OF ASSESSMENT YEAR 1997-98 DTD. 7/2/2000.
EXT.P6	TRUE COY OF THE LETTER IN RESPECT OF ASSESSMENT YEAR 1998-99 DTD. 7/2/2000.

P . R . RAMAN , J .

O . P . Nos . 11070 & 11072 OF 2000

Dated this the 22nd day of November 2007

JUDGMENT

These matters arise under the Sales Tax Act. While completing the assessment, it was found that the petitioners have paid excess amount of tax. So however, the payment was confirmed under Section 7(12) of the Act. I have already held in O.P.No.7190/2000 that there is no warrant for confirmation of the payment of tax under Section 7(12). The payment of tax under Section 7(7) of the Act is not covered by Section 7(12) of the Act.

2. In the light of the above decision and for the reasons stated therein, the order confirming the excess payment is set aside. The Assessing Officer shall pass fresh orders, after adjustment of the excess amount to the surcharge, if any, found due and shall order refund of the balance amount in excess.

Original Petitions are allowed as above.

**P . R . RAMAN ,
Judge .**

kcv .